

Message Text

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C O R R E C T E D C O P Y (REFERENCE)

USOECD

EXCON

E.O. 11652: XGDS1
TAGS: ESTC, COCOM
SUBJ: NETHERLANDS MEMORANDUM ON CONTROLLING TECHNOLOGY
THROUGH PRODUCT CONTROLS

REF: COCOM DOC PROC (78)2

1. NETHERLANDS DELEGATION HAS INTRODUCED A MEMORANDUM TO COCOM CALLING FOR EARLY SPECIAL MEETING TO DISCUSS THE PRACTICE OF "NOMINALLY" CONTROLLING PRODUCTS JUST TO CONTROL THE RELATED DESIGN AND PRODUCTION TECHNOLOGY. NETHERLANDS VIEW IT THAT IN MOST CASES THE TECHNOLOGY SHOULD BE CONTROLLED BY CONTROLS ON DESIGN AND MANUFACTURING EQUIPMENT AND THAT "NOMINAL EMBARGOING OF PRODUCTS" SHOULD ONLY BE USED WHERE THE EXPORT OF IMPORT- AND STRATEGIC DESIGN AND MANUFACTURING TECHNOLOGY CANNOT BE PREVENTED BY CONTROL ON DESIGN AND MANUFACTURING EQUIPMENT ITSELF.

2. TEXT OF MEMORANDUM AS FOLLOWS:
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"1. UP TO NOW CONTROL OF TECHNOLOGY, TECHNICAL KNOW-HOW ETC. HAS BEEN REALISED BY THE INDIRECT METHOD I.E. ALONG THE LINE LAID DOWN IN ADMINISTRATIVE PRINCIPLE 5 (AS REVISED).
AS A CONSEQUENCE COMMODITIES HAVE BEEN KEPT UNDER "NOMINAL" CONTROL JUST TO SAFEGUARD, AND PREVENT THE EX-

PORT OF, THE RELATED DESIGN AND PRODUCTION TECHNOLOGY.

2. THE LAST YEARS HAVE SHOWN THE PROLIFERATION OF USE IN EQUIPMENT FOR CONSUMER/CIVIL MARKETS OF ELECTRONIC PARTS DESIGNED AND MANUFACTURED WITH SOPHISTICATED, ADVANCED TECHNOLOGY.

(THE MOST IMPORTANT "KEystone" TECHNOLOGIES ARE THOSE RELATED TO AEROSPACE, COMPUTERS AND SEMICONDUCTORS). FOR THE MOMENT AND FOR ARGUMENTS SAKE, THE FOLLOWING WILL BE RESTRICTED TO THE ELECTRONIC COMPUTER-AND SEMICONDUCTOR FIELD.

3. THE MOST CLEAR-CUT CASES OF FAST PENETRATION IN CONSUMER MARKET EQUIPMENT ARE THE MICROPROCESSORS/MINI-COMPUTERS; SOME OF MAY PRESENT DAY APPLICATIONS ARE:

SEWING MACHINES, AUTOMOBILES, WASHING MACHINES, TRAFFIC LIGHTS, TV, TV GAMES, ETC, ETC,
(SEE ANNEX 1)

4. IT IS THE VIEW OF THE NETHERLANDS AUTHORITIES THAT CONTROL OF CONSUMER EQUIPMENT IS UNREALISTIC AND THEREFORE SHOULD BE PREVENTED.

5. IT IS ALSO THEIR VIEW THAT "NOMINAL EMBARGOING" WOULD ONLY BE ACCEPTABLE IN EXCEPTIONAL CASES, WHERE THE EXPORT OF IMPORTANT STRATEGIC DESIGN AND MANUFACTURING TECHNOLOGY IS INVOLVED.

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URING TECHNOLOGY CANNOT BE PREVENTED BY CONTROL ON DESIGN AND MANUFACTURING EQUIPMENT.

6. TAKING INTO ACCOUNT THE APPARENT NATIONAL LEGAL DIFFICULTIES OF MEMBER COUNTRIES TO ENFORCE CONTROL OF TECHNOLOGIES AS SUCH, DISCONNECTED FROM COMMODITIES, AND AT THE SAME TIME CONVINCED OF THE NECESSITY FOR THE COMMITTEE TO HAVE AT ITS DISPOSAL A PRACTICE WHICH MAY LEAD TO THE DE-COUPLING BETWEEN THE COMMODITY AND ITS RELATED DESIGN AND/OR MANUFACTURING TECHNOLOGY, THE NETHERLANDS PROPOSE THE FOLLOWING:

- (A) TO RESTRICT THE APPLICATION OF AP5 TO THOSE CASES IN WHICH THE OUTFLOW OF IMPORTANT STRATEGIC TECHNOLOGY CANNOT BE PREVENTED BY COMMODITY CONTROL, AND
- (B) TO USE THE MAXIMUM EXTENT THE EXISTING POSSIBILITY OF CONTROL ON TECHNOLOGY BY MEANS OF CONTROLLING THE PROCESSING AND/OR MANUFACTURING EQUIPMENT.

REMARKS:

(A) THE PRESENT APPLICATION OF AP5, RESULTS IN A DI-

RECT RELATION BETWEEN THE CONTROL STATUS OF THE COMMODITY AND THAT OF ITS RELATED TECHNOLOGY; IT LEADS TO "NOMINAL" CONTROL OF ITEMS WHICH IN ITSELF MAY NOT BE CONSIDERED AS HAVING AN IMPORTANT STRATEGIC VALUE. (SEE NUMEROUS ADMINISTRATIVE EXCEPTIONS).

(B) GIVES THE OPPORTUNITY TO LOOSEN THE STRICT COMMODITY-TECHNOLOGY RELATION, WITHOUT ENTERING IN "TECHNOLOGY SEC" CONTROL, BY MEANS OF STRINGENT EMBARGO ON DESIGN AND/OR MANUFACTURING EQUIPMENT, AND IN THIS WAY PREVENTS "NOMINAL" CONTROL. IT ALSO INTRODUCES THE POSSIBILITY OF TOTAL DECONTROL OF COMMODITIES THAT CONTAIN TECHNOLOGY OF STRATEGIC IMPORTANCE, BUT WHICH ARE LISTED FOR THAT REASON ONLY.
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THE JUSTIFICATION FOR SUCH AN APPROACH IS THE FACT THAT FOR THE GREATER PART, IT NOT ALL, THE CONTROLABLE TECHNOLOGY IS EMBEDDED IN THE RELEVANT DESIGN-, PROCESS- AND MANUFACTURING EQUIPMENT.

7. THE NETHERLANDS AUTHORITIES PREFER THE EMBARGO ON MANUFACTURING EQUIPMENT TO THE CONTROL OF FINISHED PRODUCTS IF THE LATTER IS MAINTAINED ONLY FOR THE SAKE OF TECHNOLOGY PROTECTION, AND, IN THIS CONNECTION REGRET THE CONTINUED ABSENCE OF RESULTS FROM THE US UNDERTAKING TO SUBMIT TO THE COMMITTEE A REVISED PROPOSAL FOR REDIFINITION OF ITEM 1355. (SEE COCOM DOCS. REV (74) 1355/1 1355/1-9 AND DEF (76) 1355/1-6).

MOREOVER THEY ARE OF THE OPINION THAT A DECISION IN PRINCIPLE ON THE ABOVE SUBJECT (AND THE ALTERNATIVES) IF OF GREAT IMPORTANCE AND SHOULD BE TAKEN WILL IN ADVANCE TO THE 1978 LIST REVIEW. THEY THEREFORE PROPOSE TO DISCUSS THIS MATTER IN SPECIAL COCOM MEETING AT THE EARLIEST POSSIBLE DATE."
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